

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,407
)
Appeal of)
)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her eligibility for VHAP. The issue is whether the Department correctly calculated the income of the petitioner's household. The pertinent facts are not in dispute.

FINDINGS OF FACT

1. The petitioner lives with her husband and their nineteen-year-old son. The son is employed and is not a student. When the son's wages are included in the household's income the household is far in excess of the VHAP program maximum

2. Until recently, the petitioner received VHAP based on a two-person household comprised of her and her husband. It now appears that this determination was in error, although the benefits the petitioner received during that time are not subject to recoupment.

3. The petitioner has chronic medical conditions that require her to take expensive prescribed medications on a regular basis.

ORDER

The Department' decision is affirmed.

REASONS

Under the VHAP regulations the gross income of all household members must be considered in determining eligibility. WAM § 4001.83. Under section 4001.8 of the regulations "the VHAP applicant and his or her spouse" and "children under age 21 of the applicant or spouse" must be included in the VHAP group "if living in the same home". Although the regulations contain separate eligibility rules for "students" (see § 4001.6), in this case they do not apply because the petitioner's son is not in school.

Under the current regulations (see WAM § 4001.84) the maximum allowable income for a three-person household is \$1,735 a month. Procedures Manual § 2420. The petitioner concedes that when her son's income is added to her and her husband's income the total household income is well in excess of that maximum. Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a six-month period can trigger eligibility at that point. Having inordinately high medical expenses, the petitioner and her husband are harshly affected by the lack of such a provision. At present, however, there is nothing in the VHAP regulations allowing for the consideration of medical expenses (or any

other household expenses) as a deduction from gross income.

Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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